

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BUMBLE AND BUMBLE, LLC,

Plaintiff,

against

Civil Action No 2: 13-cv-01462-KM-MAH

HARMON STORES, INC.,

Defendant

HARMON STORES, INC.,

Third- Party Plaintiff,

against

SRG, INC., ACTIVE BEAUTY, INC.,
INTERNATIONAL BEAUTY
NETWORK, RENAISSANCE
TRADING, INC.,

Third-Party Defendants

**INTERNATIONAL BEAUTY NETWORK'S ANSWER TO
HARMON STORES, INC.'S THIRD PARTY COMPLAINT**

Defendant International Beauty Network (“International Beauty”), by and through its attorneys, hereby answers the Third Party Complaint of Harmon Stores, Inc. (“Harmon”). International Beauty denies the allegations and characterizations in Harmon’s Third Party Complaint unless expressly admitted in the following paragraphs:

ANSWER TO THIRD PARTY COMPLAINT

41. The allegations of paragraph 41 assert conclusions of law to which no response is required. To the extent a response is required, International Beauty admits that it is named as a Third Party Defendant in this action, and lacks knowledge sufficient to confirm or deny the remaining allegations in Paragraph 42, and therefore denies those allegations.

42. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 42, and therefore denies those allegations.

43. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 43, and therefore denies those allegations.

44. International Beauty admits the allegations of Paragraph 44.

45. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 45, and therefore denies those allegations.

46. The allegations of paragraph 46 assert conclusions of law to which no response is required. To the extent a response is required, International Beauty admits that Court may exercise jurisdiction under 28 U.S.C. §§1331 and 1367, and is without sufficient knowledge or information to form a belief as to the truth of the allegations against the other third party defendants, and therefore denies those allegations.

47. The allegations of paragraph 47 assert conclusions of law to which no response is required. To the extent a response is required, International Beauty admits only that venue is proper, but inconvenient.

BACKGROUND FACTS

48. International Beauty admits that it sold Bumble & Bumble products to Harmon, but is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 48 with respect to the other third party defendants, and therefore denies those allegations.

49. International Beauty denies the allegations contained in Paragraph 49 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants and therefore denies those allegations.

50. International Beauty denies the allegations contained in Paragraph 50 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants and therefore denies those allegations.

51. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 51, and therefore denies those allegations.

52. International Beauty denies the allegations contained in Paragraph 52 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

53. International Beauty denies the allegations contained in Paragraph 53 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

54. International Beauty denies the allegations contained in Paragraph 54 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants and therefore denies those allegations.

COUNT I
(Alleged Federal False Description and Alleged False Designation of Origin In Commerce)

55. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

56. International Beauty denies the allegations contained in Paragraph 56 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

57. International Beauty denies the allegations contained in Paragraph 57 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT II
(Alleged Federal False Advertising)

58. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

59. International Beauty denies the allegations contained in Paragraph 59 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

60. International Beauty denies the allegations contained in Paragraph 60 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT III
(Alleged Indemnity)

61. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

62. International Beauty denies the allegations contained in Paragraph 62 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

63. International Beauty denies the allegations contained in Paragraph 63 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

64. International Beauty denies the allegations contained in Paragraph 64 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT IV
(Alleged Breach of Contract)

65. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

66. International Beauty denies the allegations contained in Paragraph 66 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

67. International Beauty denies the allegations contained in Paragraph 67.

68. International Beauty denies the allegations contained in Paragraph 68 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

69. International Beauty denies the allegations contained in Paragraph 69 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

70. International Beauty denies the allegations contained in Paragraph 70 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT V
(Alleged Breach of Implied Warranty of Non-Infringement)

71. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

72. International Beauty denies the allegations contained in Paragraph 72 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the

allegations with respect to the other third party defendants, and therefore denies those allegations.

73. International Beauty denies the allegations contained in Paragraph 73 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT VI
(Alleged Breach of Implied Warranty of Merchantability)

74. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

75. International Beauty denies the allegations contained in Paragraph 75 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

76. International Beauty denies the allegations contained in Paragraph 76 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

77. International Beauty denies the allegations contained in Paragraph 77 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT VII
(Alleged Breach of The Implied Covenant of Good Faith and Fair Dealing)

78. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

79. International Beauty denies the allegations contained in Paragraph 79 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

80. International Beauty denies the allegations contained in Paragraph 80 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

81. International Beauty denies the allegations contained in Paragraph 81 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT VIII
(Alleged Unjust Enrichment)

82. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

83. International Beauty denies the allegations contained in Paragraph 83 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT IX
(Alleged Negligent Misrepresentation)

84. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

85. International Beauty denies the allegations contained in Paragraph 85 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

86. International Beauty denies the allegations contained in Paragraph 86 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

87. International Beauty denies the allegations contained in Paragraph 87 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

88. International Beauty denies the allegations contained in Paragraph 88 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

89. International Beauty denies the allegations contained in Paragraph 89 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

90. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 90, and therefore denies the same.

91. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 91, and therefore denies the same.

92. International Beauty denies the allegations contained in Paragraph 92 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

COUNT X
(Alleged Fraudulent Inducement)

93. International Beauty repeats and reiterates its answers to all of the preceding paragraphs of the Third Party Complaint as though fully set forth herein.

94. International Beauty denies the allegations contained in Paragraph 94 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

95. International Beauty denies the allegations contained in Paragraph 95 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

96. International Beauty denies the allegations contained in Paragraph 96 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

97. International Beauty is without sufficient knowledge or information to form a belief as to the truth of the first allegation of Paragraph 97, and therefore denies that allegation. International Beauty denies the second allegation contained in Paragraph 97 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegation with respect to the other third party defendants, and therefore denies those allegations.

98. International Beauty denies the allegations contained in Paragraph 98 with respect to itself and is without sufficient knowledge or information to form a belief as to the truth of the allegations with respect to the other third party defendants, and therefore denies those allegations.

AFFIRMATIVE DEFENSES TO THE THIRD PARTY COMPLAINT

International Beauty's Affirmative Defenses are listed below. International Beauty reserves the right to amend its Answer to add additional Affirmative Defenses consistent with the facts discovered in the case.

**FIRST AFFIRMATIVE DEFENSE
(Failure To State A Claim for Relief)**

The Third Party Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE
(Estoppel, Waiver, Unclean Hands and Laches)**

Third Party Plaintiff's claims are barred, in whole or in part, by the equitable doctrines of estoppel, waiver, unclean hands, and/or laches.

**THIRD AFFIRMATIVE DEFENSE
(Statute of Limitations)**

Third Party Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

**FOURTH AFFIRMATIVE DEFENSE
(Failure To Mitigate Damages)**

Third Party Plaintiff has filed to mitigate its alleged damages, if any.

**FIFTH AFFIRMATIVE DEFENSE
(Acquiescence)**

Third Party Plaintiff unduly delayed giving notice to the trade or to International Beauty as to the likely or actual presence of alleged counterfeit products in the market, and therefore, acquiesced in the distribution and sale of those products and prevented International Beauty from having knowledge that the alleged counterfeit products were in the market.

**SIXTH AFFIRMATIVE DEFENSE
(Contribution)**

If Third Party Plaintiff suffered or sustained any loss, damage, or injury as alleged in the Third Party Complaint, which International Beauty specifically and expressly denies, then said loss, damage and/or injury was proximately caused or contributed to by the actions of individuals and/or entities other than International Beauty, and Harmon's recovery against International Beauty, if any, should be reduced accordingly.

**SEVENTH AFFIRMATIVE DEFENSE
(Indemnity)**

If Third Party Plaintiff sustained any damages, whether as alleged in the Third Party Complaint or otherwise, which International Beauty specifically and expressly denies, then in that event, International Beauty is entitled to indemnity from other parties to the extent that such parties caused or contributed to Third Party Plaintiff's alleged damages, if any.

RESERVATION OF ALL AFFIRMATIVE DEFENSES

International Beauty reserves all affirmative defenses permitted under the Federal Rules of Civil Procedure, the trademark laws of the United States and/or at law or in equity, that may now exist or may exist in the future based on discovery and further investigation in this case.

REQUEST FOR RELIEF

WHEREFORE, Third Party Defendant International Beauty requests that judgment be entered as follows:

1. That the Court dismiss with prejudice the Third Party Complaint against International Beauty in its entirety;
2. That the Court declare that Third Party Plaintiff take nothing by its claims for relief;
3. That the Court enter judgment in favor of International Beauty, and against Third Party Plaintiff in all respects;
4. That International Beauty be awarded its reasonable attorneys' fees, costs and other expenses incurred in defense of this action as may be allowed by law;
5. That the Court grant other relief as the Court may deem just and proper.

Dated: January 3, 2014

Respectfully submitted,

By: /s/ Tonia A. Sayour

Tonia A. Sayour

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Counsel for Third Party Defendant

**INTERNATIONAL BEAUTY NETWORK,
INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing INTERNATIONAL BEAUTY NETWORK'S ANSWER TO THID PARTY COMPLAINT has been served on January 3, 2014 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. If a party is not give notice electronically through the Court's system, a copy will be served by United States mail, first class postage prepaid.

/s/ Tonia A. Sayour

Tonia A. Sayour